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PATENT
Attorney Docket: 53356-5001-US
(formerly 45636-5025)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **G. Lenzen et al.**

Application No. 09/319,724

Filed: September 8, 1999

For: **MAMMALIAN ICYP
(IODOCYANOPINDOLOL) RECEPTOR
AND ITS APPLICATIONS**

Group Art Unit: 1646

Examiner: **Michael T. Brannock**

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Commissioner for Patents
Washington, D.C. 20231

TECH CENTER 1600/2900

**RESPONSE TO RESTRICTION & SPECIES ELECTION REQUIREMENT & SECOND
PRELIMINARY AMENDMENT**

I. Restriction Requirement

In response to the Office Action dated July 2, 2002 (Paper No. 10), the period for response to which has been extended through September 2, 2002 by the accompanying one month extension of time, Applicants hereby elect to prosecute the claims of Group I, claims 22-29, 33-37 and 39.

II. Species Election Requirement

In response to the Species Election Requirement, Applicants hereby elect SEQ ID NO. 14 for examination purposes. In accordance with PCT Rule 13.1, the Examiner has correctly grouped SEQ ID NO. 14, SEQ ID NO. 13, SEQ ID NO. 1 and SEQ ID NO. 2 as a single general inventive concept under Group I as discussed on page 3, second paragraph, and item 5 on page 5 of the Office Action. Therefore, Applicants are somewhat confused by the Examiner's assertion that the species are patentably distinct as indicated in items 4 and 6 of the Office Action. Applicants respectfully draw the Examiner's attention to Example 17 of the Administrative Instructions Under The PCT which states that wherein the protein is encoded by the DNA, the protein and the DNA sequence exhibit special technical features and unity is accepted. The

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sequences of the instant application (SEQ ID NO. 14, SEQ ID NO. 13, SEQ ID NO. 1 and SEQ ID NO. 2) are closely related to each other as follows:

- SEQ ID NO. 2 is a nucleotide sequence encoding the amino acid sequence of SEQ ID NO. 1
- SEQ ID NO. 13 is a nucleotide sequence encoding the amino acid sequence of SEQ ID NO. 14.
- SEQ ID NO. 1 corresponds to the amino acid sequence from amino acid NO. 119 to 557 (inclusive) of the sequence of SEQ ID NO. 14.

Therefore, Applicants respectfully submit that all four of the sequences share a common technical feature as defined by Example 17 and should be considered a single inventive concept. Applicants understand that the additional species will be examined under the provisions of 37 C.F.R. § 1.141 upon allowance of a generic claim.

III. Second Preliminary Amendment

Prior to the examination of the instant application, please amend the application as follows:

In the Specification:

Please amend by substituting the following paragraphs in the specification as follows:

On page 3, lines 27- 28, please substitute:

B1 "According to an advantageous embodiment of said protein it consists of SEQ ID NO: 14."

On page 4, lines 6-7, please substitute:

B2 "According to an advantageous embodiment of said coding sequence, it consists of SEQ ID NO: 13, which corresponds to SMBP cDNA."

On page 4, lines 8-13, please substitute:

B3 "The said SEQ ID NO: 13 comprises in particular the following single restriction sites:
BstU I, Hha I, HinP I, Ava I, Sma I, Xma I, BsaA I, Apa I, Ban II, Bsp120 I, EcoO 109 I, Sca I,